Exhibit K

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

JEAN LIN,)
)
Plaintiff,)
)
vs.) No. 07CV3218
)
METLIFE INSURANCE COMPANY,)
)
Defendant.)

DEPOSITION OF LOUIS M. ALEDORT, M.D.

New York, New York

Monday, June 2, 2008

Reported by:

NICOLE AMENEIROS, RPR

JOB NO. 203062

June 2, 2008
9:50 a.m.

Deposition of LOUIS M. ALEDORT, M.D., held at the offices of Louis Aledort, M.D., 19 East 98th Street, New York, New York, pursuant to Notice, before NICOLE AMENEIROS, a Notary Public of the State of New York.

APPEARANCES:

TRIEF & OLK
Attorneys for Plaintiff
150 East 58th Street
New York, New York 10155
BY: TED TRIEF, ESQ.

METLIFE INSURANCE COMPANY
Attorneys for Defendant
27-01 Queens Plaza North
Long Island City, New York 11101
BY: TOMASITA SHERER, ESQ.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the respective parties hereto, that the filing, sealing and certification of the within deposition shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.

Aledort

(Aledort Exhibit A, curriculum vitae, marked for identification, as of this date.)

LOUIS ALEDORT,
called as a witness, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

THE COURT REPORTER: Can you state your name and address for the record, please.

THE WITNESS: Louis, L-O-U-I-S, Morris, M-O-R-R-I-S, Aledort, A-L-E-D-O-R-T, 300 Central Park West, New York 10124. Apartment 3H, New York. I gave you 10124.

EXAMINATION
BY MS. SHERER:

Q. Good morning, Dr. Aledort.

A. Good morning.

Q. My name is Tomasita Sherer. I'm an attorney with MetLife. I'm here today to ask you some questions about your background and experience and some of the opinions that you

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issue.
Q. Okay. So then would it be fair to say that approximately 90 percent of the 15 to 20 percent of the patients that come to you with liver problems come to you with hepatitis C?
A. No, I didn't say that. I said C is more prevalent. They come with hemochromatosis. They come with cryptogenic cirrhosis, C-R -- C-R-Y-P-T-O, cryptogenic. They come with metastatic disease to the liver. They come with liver disease of unknown etiology.
Q. Okay. But only approximately 10 percent of the 15 to 20 percent that come to you with liver disease come to you with active hepatitis B virus, correct?
A. Well, active is a -- have hepatitis B.
Q. Okay.
A. I don't want to separate, nor can I give you percent of active versus inactive.
Q. When a patient comes to you with active hepatitis B do you suggest that patient go to a specialist?
A. They're usually sent to me by the

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specialist.
Q. Can you explain that just for the jury what you mean?
A. A lot of liver disease patients wind up having major blood abnormalities for which they send them to me from the liver people, from the liver pathology people, the liver disease people, and then there are -- people come from general internists who haven't even recognized that the blood disease they gave -- sent me were in hep B patients who happen to have the blood problems secondary to the hep B.
Q. I guess what I'm trying to understand is whether you would treat those patients for their liver or would you recommend them to see a specialist to treat their liver?
A. That's a different question than you asked me.
Q. Okay.
A. Totally different. And I made it clear from the beginning I do not give the treatment. I manage them as their overall person, or I manage the blood from that particular patient, and the treatment would come

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from the liver people as part of this team.
Q. And the liver people would mean hepatologist or gastroenterologist?
A. Hepatology. I would never send to a general gastroenterologist, only to a hepatologist who spends their whole time worrying about liver and treating liver disease.
Q. Can you explain the difference between a hepatologist and a gastroenterologist?
A. I thought I did before. A gastroenterologist is like a general hematologist, has to know all the different parts of the GI system to pass the exam, but many of them then track in different ways. And those who track in liver take special years in liver and that's what they do the rest of their life.
Q. So would you agree then that a hepatologist is at the top of the food chain with respect to the liver disease?
MR. TRIEF: Object to the form of the question. You can answer if you understand.
A. Food chain? I don't know what that

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means.
Q. Okay. Would you agree that the hepatologist is a bet -- let me phrase it again. I really liked food chain.
Would you agree then that a hepatologist --
A. I didn't like hepatologist as food.
Q. -- is the most specialized in the area of liver disease?
A. Of all the people in gastroenterology the liver guy who spent his years of training in liver is the most qualified to deal with liver disease and treat it.
MS. SHERER: Okay. I actually would like to take just five minutes because I need go to the ladies' room. Is that okay?
THE WITNESS: Please. Take your time. It's right there.
(Recess taken.)
Q. What I'd like to ask you about now is your work as an expert. I think you mentioned earlier that you have worked before as an expert. Can you tell me approximately how many times you have worked as an expert?

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hep C epidemiology from the National Institute of Cancer, which there are loads of publications, all relate HIV, hep C, hep B, interrelationships on outcome of patients when they got infected, how long they are infected, when they die, how they die, the role of hepatitis as an adjunct to HIV disease, the interrelationship of HBV to HCV.
Q. Other than in those contexts that you have just described do any of your articles relate to the treatment of hepatitis B?
A. No.
Q. Are any of your articles about liver disease?
A. Yes.
Q. Which ones?
A. All the articles that relate to HIV, HCV and hep B, all those articles the major cause of death in those people were liver disease.
Q. Are any of your articles about the treatment of liver disease?
A. Yes. All the ones about HCV from the NCI, which is the epidemiology of HCV and these

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blood donor recipients, biologic recipients --
Q. Other than --
MR. TRIEF: Wait, wait. Let him finish.
MS. SHERER: I'm sorry. Finish.
THE WITNESS: You told me not to stop you.
MS. SHERER: I'm very sorry. I hope this was the first time I've interrupted you.
A. -- talked about the concomitant treatment, most of it has been HCV and HIV together, HCV alone or no treatment at all, little on the treatment of HBC per se, and, as I stated before, I have not written on HBC treatment.
Q. Other than in the transfusion context are any of your articles about the treatment of liver disease?
A. I have never written about the treatment of liver disease.
Q. Do any of your articles discuss the prevalence of hepatitis B in the Asian population?

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A. No.
Q. I know that you've also written about hepatitis C, correct?
A. Yes.
Q. Can you explain the difference between hepatitis B and hepatitis C to the jury?
A. Absolutely could. Would you like me to spend today and tell you?
Q. Could you tell me generally?
A. Yeah. The epidemiology is different. Hepatitis B is transmitted sexually, needle stick and vertically.
Q. Other than -- I'm sorry.
A. Hepatitis C is transmitted by blood, rarely sexually unless you're extremely promiscuous, and needle stick and mainly through transfusion.
Q. What about the affects of hepatitis B versus hepatitis C on the liver?
A. Hepatitis B is frequently fulminant and needing a liver transplant. Hepatitis B is almost -- is more frequently cleared than hep C by a long shot since a very small percent of people wind up being hepatitis B antigen

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positivity, except in the transfusion group that it's higher than the general population. It is with hepatitis C only 20 percent gets cleared -- 20 to 25 percent is cleared spontaneously where 98 percent of B is cleared spontaneously. There is a vaccine for hep B and not for C. C is -- can lead to chronic hepatitis in approximately 25 to 30 percent leading to liver failure markedly increased with HIV, not true for B, and has an increased incidence if uncontained of hepatocellular carcinoma. We have no vaccine for hep C.
MR. TRIEF: Could you read it back? Dr. Aledort, would you listen to -- I just want to make sure that we got it correct. It was long.
THE WITNESS: Sure. I'm sorry.
MR. TRIEF: That's okay.
(Record read.)
THE WITNESS: Correct. And the opening sentence is on the relative scale. C almost never presents fulminant but B can.
Q. With respect to what you just stated

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at every other part of his body and find there was nothing wrong. I have no idea if he only did lab tests and never looked at him as a human being. I have no idea.

Q. Okay.

A. So I can't say he never did anything else.

Q. Well, maybe I should rephrase the question. What I'm asking is in accordance with the medical records that you've reviewed was Mr. Lin seeing Dr. Kam for any other medical condition other than hepatitis B?

A. I would say he saw him and his attention was focused on his hepatitis B management and follow up.

Q. And anything else?

A. Well, he found a lesion in his stomach and referred him to somebody else, so he did find something else.

Q. Okay. Other than the lesion that he found in his stomach and referred him to someone else was there anything else that Dr. Kam was looking at?

A. I can't tell you that because he

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wouldn't have found something in his stomach if he didn't look at everything. So I would say he's probably a good internist and hepatologist, but there's nothing in the record except that he found something that he looked for.

Q. Why was Mr. Lin to your knowledge seeing Dr. Kam every six months after his treatment with interferon?

A. As I stated before, because it's the recommended follow up of somebody who has successfully treated with -- for his hepatitis B.

Q. And at all times that Mr. Lin was seeing Dr. Kam wouldn't you agree that at all times he was a hepatitis B carrier?

A. Not at all times. His E antigen was negative for a short period of time and then reverted back.

Q. What about the surface antigen?

A. It almost never goes away even if you're -- even if you don't have any virus. It only goes away about five percent of the cases treated successfully even today.

Q. So would you agree that at all times

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Mr. Lin showed a surface antigen positive for hepatitis B?

A. It's just what I just said.

Q. Is that yes?

A. Yes.

Q. Was Dr. Kam a gastroenterologist to your knowledge?

A. I have no idea.

Q. Do you know whether he was a hepatologist?

A. I have no idea. I assume he is.

Q. Do you know whether he was board certified in hepatology or gastroenterology?

A. I'm sure you asked in a deposition, but I do not remember.

Q. Do you even know who Dr. Kam is professionally?

A. Absolutely never heard of him before.

Q. Now, I asked you why Mr. Lin continued to see Dr. Kam for monitoring every six months from January of '99 through 2005; do you remember that?

A. Yes, I sure do.

Q. Why -- you testified I believe that

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that would be the standard practice; is that right?

A. Well, I just testified like 30 seconds ago, yes.

Q. Why is that the standard practice or why is continued monitoring necessary?

A. Because someone who's E antigen is positive, and -- and you use the term appropriately, carrier they follow because we have many treatments if you should happen to have a resurgence of your hepatitis B so they monitor the laboratory and physical exam to ensure that you remain in the same status you've been following your treatment.

Q. And would you agree that a resurgence is possible?

A. Yes.

Q. In your letter to Mr. Trief you state that, quote, a large number of Asians infected with hepatitis B spontaneously recover from the condition and a large number are treated successfully, correct?

A. Correct.

Q. What do you base that opinion on?

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A. The literature, some of which you have, that with interferon about 30 percent responded now with a variety of drugs. One of the papers I think there is about the drugs. It's much, much higher as similar to the treatment of HCV so that today with early detection, the ability to measure viral titer most Asians are undergoing therapy for -- for this and have a very high success rate and then get followed to make sure they don't have resurgence because there's no medications that put them back into remission again.

Q. Can you tell me which paper you're relying on that relates to Asians infected with hepatitis B spontaneously recovering?

MR. TRIEF: Objection to the form of the question. You can answer if you understand.

A. The -- I don't think there's a specific paper. When I say spontaneous recovery means when infected they clear it. Different from longstanding. Spontaneous does not mean you had it for a long time. I did not differentiate acute infection from chronic.

Aledort

Chronic infection is not spontaneously remitted. Acute infection has a high rate of clearing.

Q. Okay.

A. Asian or non-Asian.

Q. I guess what I'm trying to figure out is are there any articles that you've relied on either that are here that we've marked or that you can recall that specifically study Asian infection?

A. Yeah.

MR. TRIEF: Wait just a minute. Objection to the form of the question. Using the word relied on. You can answer it if you understand it.

THE WITNESS: Yeah. Number one, I don't like the word relied on either. No, for one reason, you have a body of knowledge for 40 years of practicing and reading, one doesn't pick out an article and an article today, very well-quoted by Ralph Engel (ph), today's apple's tomorrow's core and you throw it in the garbage. So what we know today can change dramatically tomorrow.

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Q. What I'm just trying to figure out is which article specifically relates to Asians being affected with hepatitis B that you reviewed in connection with this case?

A. There are articles, and I can't remember which one, and it may or may not be in that stack.

Q. Well, I'd like to show you the stack just so we can rule that out because --

A. It may not be there, but there are articles on Asians. There are. But most of them are not about anything other than the ones who stay infected. I just want to see if any of these specifically focus on the -- I don't think this group does, but there are articles.

Q. Let me rephrase the question just so we have the record clear. Is there any article that you have given me here today which relates to Asians spontaneously recovering from hepatitis B?

A. Nope.

Q. Can you recall as we sit here today the title of one such article?

A. Nope, no.

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Q. How do you know that a large number of Asians spontaneously recover?

A. I want it very clear that they recover from the acute infection and that's from watching and treating and being involved in management of such patients in this major clinical center and the well-known articles on acute infection with hep C and the prevalence of hep C positivity in different ethnic groups from acute infection.

Q. Now, you did say hep C. Did you mean to say that?

A. Hep B. I'm sorry. I meant B. Hep C response is only very recently recognized clearance.

Q. And you would agree that you were not discussing the chronic hepatitis B situation, simply the acute, correct?

A. I made that quite clear.

Q. So would you then agree that a large number of Asians with chronic hepatitis B do not spontaneously recover from the condition?

A. I said they don't.

Q. And even the Asians with acute

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infection who spontaneously recover would you agree that even with them the majority of them do not lose the surface antigen?

A. No, they do. The ones who recover lose everything.

Q. Okay.

A. They are -- that's different from the treatment of chronic. They clear everything.

Q. Okay. So I just want to make sure I understand your definition of recover.

A. I said -- go ahead.

Q. Well --

A. They recover means they have cleared the infection. They are now antibody positive, surface antibody positive, because the body has attacked and gotten rid of the antibody -- of the virus.

Q. Now, would you agree that Mr. Lin never fell into that category?

A. Absolutely did not.

Q. In other words, to be clear, he never lost the surface -- he was never surface antibody positive, correct?

A. Correct, but that's not the

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definition. He was picked up having hepatitis B that wasn't spontaneously cleared.

Q. I'm not sure I understand.

A. When he was diagnosed he was not cleared. He had virus. He had markers. You could be core antibody positive and be cleared, but he wasn't any of those. See, he's never been a cleared patient when he was first diagnosed.

Q. What about later? What about during the course of his treatment?

A. I said when he was diagnosed. I was very clear about that. And I said he cleared his infection for a short time and then his E antigen came positive again and that's what put him into the carrier state.

Q. And he never lost the surface antigen?

A. I said he did not lose the surface antigen and only five percent clear the surface antigen with successful treatment.

Q. So then would you agree that he never recovered?

A. No, I didn't say that at all. He

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didn't clear. The word recover his liver function recovered and became normal.

Q. Okay. But --

A. And his DNA disappeared.

Q. But he didn't clear the virus from his system?

A. Because his E antigen remained positive.

Q. Are you aware approximately 90 percent of children affected perinatally in Asians become chronic carriers of the virus?

A. Yeah, if they're not treated.

Q. You say if they are not treated. So I just want to make sure I understand. If they are treated or successfully treated, as you've said, would you then say that they're not chronic carriers?

A. Some will be and some will not be. But now we're talking about a different group of people. We don't know the etiology of this man's hepatitis B.

Q. Well, didn't you state in your letter that -- let me just find it.

A. I didn't say he was vertically

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transmitted.

Q. Do you know how he became infected?

A. No.

Q. I thought --

MR. TRIEF: It says often. The word often is --

MS. SHERER: I thought that in your letter you --

THE WITNESS: It's often vertically transmitted. It didn't say he was.

MS. SHERER: Okay.

THE WITNESS: In fact, it's clear from the record that nobody was positive whether he had it his whole life or he just got it two years before, six months before.

Q. Well, based on your experience, based on your 40 years of experience, do you think you have a guess either way how he got it?

A. How could you possibly guess?

MR. TRIEF: Objection to --

THE WITNESS: How could you possibly guess? I never guess at etiologies. Sorry. I didn't mean to interrupt you.

MR. TRIEF: It's okay.

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Q. Okay. In paragraph three of your letter you note that Dr. Kam prescribed interferon therapy for Mr. Lin beginning in September of 1998, correct?
A. Correct.
Q. Why did he do that if you could explain to the jury?
A. Because at the time it was the only treatment for hep B and he wanted to see if he could put him in -- get him better.
Q. And are there different treatments available now?
A. Yes. A variety of treatments, some actually that crossover to treat HIV as well.
Q. Do you have an opinion as to whether those treatments are better or worse?
A. Better.
Q. In what way?
A. Higher percent response.
Q. Is there also a lower percent of resurgence or do you know either way?
A. I don't think they know very long-term.
Q. When --

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A. But the recommendations are the same therefore they watch to see about reoccurrence in all the patients whose liver function get better. The virus disappears, recommendations today as they were then every six months you see the patient.
Q. And interferon treatment was for approximately six months until February of '99, correct?
A. Right.
Q. What were the results of the interferon treatment?
A. He got a great response.
Q. Is it your opinion with a reasonable degree of medical certainty that he could never have become an active virus carrier after this?
A. I said he was a carrier therefore the question is -- is moot.
Q. Well, I don't know if I said this, but I meant become an active virus carrier?
A. That's why they follow them every six months to see where the -- the viral titer is, what's happened to his liver physically, the whole bit.

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Q. So are you then agreeing that he was an active virus carrier the entire time?
A. What do you mean by active? You define that.
Q. Okay. Well, let's get back to the interferon treatment. You said he had a great response?
A. Yes.
Q. Okay. By that do you mean that he went from active stage to inactive stage?
A. He went from a guy whose liver function was abnormal to normal. He went from a guy who had lots of virus in his blood to undetectable. He went -- and those are the most important in terms of his infectivity.
Q. Okay. So my follow-up question was then is it your opinion with a reasonable degree of medical certainty that he could never have become -- that he could have gone into the reverse?
A. I never said that.
Q. I mean, that's my question for you right now.
A. I said I never said it.

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Q. Would you agree or disagree?
A. There's no way that you could guarantee that he would not have a resurgence. That's why you follow them every six months because there are different treatments that could put him back to where he started again before if that should happen, which did not.
Q. And since you did review Mr. Lin's medical records from Dr. Kam would you agree that the only treatment Mr. Lin received was interferon therapy?
A. That's correct. For his hepatitis B because he developed cancer for which he got other treatments.
Q. But he never used any of the new treatments that you discussed earlier?
A. He wasn't -- didn't need to.
Q. Okay. During the course of his treatment, Mr. Lin's treatment with Dr. Kam, would you agree that his lab records showed that he became active again?
A. No. Well, I would say the antigen recovered, went back to positivity, which I've said now about four times, and that means that

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he should have been given medication to suppress viral activity given his history of hepatitis B?
MR. TRIEF: Objection. Irrelevant.
A. I have no comment on his cancer treatment because I --
Q. If you know.
A. No, it's irrelevant. I will not comment. I know what I think, but it's irrelevant to this discussion.
Q. Tell me what you think. I'm not sure I got that.
A. No, I don't think I should have to tell you what I think.
MR. TRIEF: Just explain how it would be relevant how he would be treated for liver -- for stomach cancer.
Q. My question to you is whether he should have been given in your opinion --
MR. TRIEF: But in what relevance would it have to this lawsuit at all? If you can just tell me the relevance I have no problem him answering it.
MS. SHERER: I don't think I have to do that. I don't think I have to do that.

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MR. TRIEF: It has to be something.
MS. SHERER: Either you answer or you won't answer or you can't answer or refuse to answer. I don't have to let you know my thinking behind the question.
MR. TRIEF: Right. I don't think he has to answer a question about unrelated treatment unless there's some relevancy to that treatment. If you can just give me an offer of proof I'll be happy to let him answer.
MS. SHERER: This is related to the statement that you made in your expert report stating that his death was completely unrelated to the diagnosis of hepatitis B.
MR. TRIEF: How is that related?
MS. SHERER: And that is all.
THE WITNESS: I still believe that 100 percent even if he had a reoccurrence at that time during the treatment.
Q. So, okay. So you're saying that even if he had -- even if he had a reoccurrence of hepatitis B during his cancer treatment that

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would have nothing to do with his death?
A. Correct. He died of metastatic cancer of the stomach.
Q. Are you aware that Dr. Lee requested HBC DNA results in his -- in his final treatment?
A. I have never been asked to look at, nor have I read anything about the time he was diagnosed and treated for his cancer.
Q. Okay. So you did not review Dr. Lee's medical records in forming your opinion then?
A. I made it quite clear twice that I've never read anything about the management of this man's cancer.
Q. So you never read Dr. Lee's medical records, correct?
A. I never read his records.
Q. Okay. In paragraph four of your letter to Mr. Trief you indicate that Mr. Lin's -- quote, Mr. Lin's lab tests results over the period of time that he was treated and monitored by Dr. Kam verify that he was, and I have dot, dot, dot, successfully treated and

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cured of hepatitis B, correct?
A. Correct, that's what I wrote.
Q. Now, what is the time period that he was treated and monitored by Dr. Kam?
A. From the time he finished interferon until he was sent to be treated for his cancer.
Q. And that was until --
A. It's all in my note. He was finished in February and then he was followed to '05 and then he was sent off to be treated by some other specialist in his stomach cancer.
Q. You stated that because his hepatitis B was no longer active, quote, there was no impact on his longevity or survival, correct?
A. Correct.
Q. Do you still agree with that statement as we sit here today?
A. 100 percent.
Q. Isn't it a fact that as a hepatitis B carrier there is a significant risk of developing liver cell cancer?
A. No. Not significant. There is absolutely not a single piece of literature that corroborates they are significantly at risk

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sitting around a room telling you what they think and the group of experts say I think this is the way we ought write it. Guidelines are not scientific articles, yet journals publish them because people always want to have guidelines to help them, and insurance companies love.

Q. And isn't it correct that these guidelines cite to scientific research?

A. Yeah.

Q. To back up their opinions?

A. So what?

Q. Well, you don't put much stock in --

A. Not guidelines.

Q. -- these guideline articles?

A. No, I didn't say that. I said whether or not they're gospel is very different.

Q. Okay.

A. Neither is a given article gospel, that's why I quoted Ralph Engel who appropriately said things change all the time.

Q. Okay. But I just want to make sure I understand. With respect to the paragraph that I read into the record do you have an opinion

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either way whether you agree or disagree with the statements that I've read?

A. I can't disagree with chronic because I don't know what they mean. They have guidelines. They don't tell me enough information. If I had a Chinese patient tomorrow and tried to fit it into that guideline I'd have a lot of trouble because it doesn't tell me 10 years, 8 years, 15, forever. And what about the acute one that then stays chronic? We don't have any idea from those articles.

Q. But wouldn't you agree that this article indicates that the risk of developing liver cell cancer is higher in the Asian hepatitis B carrier population?

A. Chronic carrier, and I just clearly defined that we don't know how chronic carrier this patient is.

Q. But if he was a chronic carrier then you would agree that the risk of him developing liver cell cancer would be higher than the general population, correct?

A. I would not agree or disagree.

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Q. But you just said --

A. Because that's a consensus statement without the literature and I have to know whether it's a significant increment or not. Somebody slightly higher means nothing to us medically.

Q. Okay. Do you know -- do you know if it means something to an underwriter?

A. I have no idea. I'm not an underwriter, nor do I spend my time with them.

Q. Okay. Now that we --

A. Can you tell me how long you're going to go on? I'll take a quick break. I'll take a biologic break.

Q. Actually, can I ask one more question so we can clear that and then we'll go off the record to talk about scheduling?

A. That's fine.

Q. Now that we have reviewed your report is there anything that you would like to change, add or clarify?

A. Well, I'll clarify the word cure if you'd like.

Q. Yes.

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A. That the man -- the patient was told he was cured and many people would use that term to a patient like that rather than try to explain that he has become a carrier. That's all I would say.

Q. Why? Why would they do that?

A. Because the chances of anything bad happening to him were so small and young people are pretty anxious so you tell them that, but he made it clear we have to follow you to make sure it's -- nothing else happens. So the -- a lot of people use that term but he cured him of his acute B infection, that he did do, but he turned him into a carrier.

Q. But would you agree that the general population doesn't have to test for this every six months, correct?

A. Of course not. You don't even test them period.

Q. So someone in his status would be treated differently than the general population?

A. I just said that. The guy used the term that a lot of people would use, and he did cure him of his acute infection. So using the

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word cure, and that's what I meant here, he was cured of acute infection but he is a carrier, and I don't know whether the guy ever used that term with this patient. It's not in the chart.
Q. Okay.
A. He just said cured.
MS. SHERER: Thank you very much, Dr. Aledort. We're going to take a break now.
(Recess taken.)
MS. SHERER: Okay. We're back on the record. I'm next going to mark Exhibit E, which is a clean copy of Dr. Clain's report without your handwritten notes on it.
MR. TRIEF: Sneaky. You had it all along.
MS. SHERER: I'm sorry.
THE WITNESS: Why can't I have it back with my notes?
MS. SHERER: Well, I want to ask you about this one.
THE WITNESS: You just said without my notes.
MS. SHERER: Yes, because we have another one that we've marked with your

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notes. I brought this one with me before I knew you had one. I'm going to mark this separately.
(Aledort Exhibit E, report, marked for identification, as of this date.)
MS. SHERER: But I will show you the one you have with your notes as well.
THE WITNESS: Okay.
MS. SHERER: Here's the clean one. And here's the one with your -- with your notes.
Q. Okay. Do you have any specific opinions with regard to what Dr. Clain stated?
MR. TRIEF: Can you -- objection to form. If you could -- I don't mind you asking any specific thing. He has a number of particular pages --
MS. SHERER: Well --
MR. TRIEF: -- in here.
MS. SHERER: I just wanted to start with the general question and then we can get more specific.
Q. If there's anything that comes to your mind generally?

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MR. TRIEF: Objection. You can answer if you can.
Q. I mean, you have reviewed the expert report of Dr. Clain, correct?
A. Yeah, of course.
Q. And I guess my question to you generally is what do you think about it?
MR. TRIEF: Objection.
Q. And then we'll narrow --
A. Too general. I won't make a comment. Why would I say anything that would either, you know -- it's too general. You can't ask me that. You can ask it I won't answer.
Q. Okay. Let's look at section by section then. How about that? Okay. Section one page two Dr. Clain titled it indication of chronic hepatitis B infection in application of Bang C. Lin to Metropolitan Life Insurance Company. Do you have --
A. I have no comments about it.
Q. I'm sorry. Let me just finish the question for the record.
A. Sorry.
Q. -- any comments with respect to

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section one?
A. No.
Q. Okay. Let's look at section two. Dr. Clain titles that recorded history of -- of chronic hepatitis B in Bang C. Lin. Okay. Do you have any opinions with respect to that section which --
A. Well, I had several comments on that. You're counting the whole section two, three and going to four, correct?
Q. I'm counting the last paragraph of page two, all of page three and a sentence of page four.
MR. TRIEF: That's what you said.
A. That's what I just said. That's what I just said. I think he does not comment about negative DNA. In that first paragraph ending on the first paragraph that you see on page three just talks about HBsAg as marker of persistence.
Q. I want to make sure I'm following you. You're now referring to --
A. The last sentence on page three of the first paragraph that's at the top.
Q. And he states HBsAg is marker of

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A. I would like it modified to mildly moderate -- minor, a minor increment because that's what -- that's the truth.
Q. So you would then agree that the risk of cancer of the liver exceeds the incidence in a minor increment in populations who are not infected with hepatitis B?
A. Correct.
Q. Do you have any other comments to paragraph two of section two?
A. No.
Q. What about paragraph three now of section two?
A. I think several occasions is not totally accurate. I think there was one that became negative and then it became positive.
Q. You're referring to the several occasions phrase in the second sentence of paragraph three?
A. Yeah. I'm not sure that it's correct. I can't swear to it because I don't have every single visit. It came positive and negative. There were negatives and positives.
Q. But do you -- you would not agree

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with the word several?
A. Well, it's okay. It's not a big deal.
Q. Any other comments?
A. Yeah, I think that the -- those positive values I would have stated the values were above reported by the lab but more than likely of no significant increment at all because of technology at that time.
Q. So you would not agree with Dr. Clain's opinion that the fluctuations of DNA are well-known occurrences in the course of treated patients with chronic hepatitis B?
A. No, I didn't say that at all. I just told you what I had a problem with, that he was unequivocal that they were positive.
Q. Would you agree with Dr. Clain that HBV DNA fluctuations are well-known occurrences in the course of treated patients with chronic hepatitis B?
A. Where do you see that?
Q. It's in the middle of the paragraph, the second sentence that begins, the HBeAg and HBV DNA fluctuations were not lab errors as

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suggested by Dr. Kam but well-known occurrences in the course of treated or untreated patients with chronic hepatitis B?
A. I don't have trouble with the sentence, but that implies that those were positives. There's nothing wrong with the sentence that there are people who go from negative to positive measurements of viral titers because that's why 20,000 is the cutoff because sometimes there will be 6,000 or 4,000 in the best of studies. These numbers exhumes are positive and that's the area that I take some issue with period.
Q. Because you don't believe those numbers were positive?
A. Correct.
Q. And how do you know they were lab errors?
A. In our studies during that period of time in the epidemiology of transfusion transmitted disease we evaluated these assays and found them to be all over the place in the early phase one of these measurements. Markedly improved now with PCR, which means that the

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number that was a cut off really wasn't a good cutoff because of the vagaries of the test. It's just a testing issue.
Q. Could the tests have been accurate?
A. Probably not at those low numbers.
Q. Okay. Is there any other comments you have to that paragraph?
A. Nope.
Q. And then the last paragraph of section two, do you have any comments to that?
A. I would have trouble with the word strong.
Q. Which sentence is that?
A. It's only one there. It's a strong possibility. That's inaccurate. That's reactivation. There is a possibility. Strong starts talking about statistics and likelihood.
Q. And that's in the fifth sentence of the fourth paragraph?
A. The next to the last --
Q. Next to last sentence?
A. Line four above the end.
Q. Okay. So just to be clear for the record you would disagree that there's a strong

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possibility that there was activation of his chronic hepatitis B, correct?
A. Yes.
Q. Do you think that there was a possibility, however?
A. I said that before.
Q. That's a yes?
A. Yes.
Q. Do you have any other comments to that paragraph?
A. Nope.
Q. Okay. The next is section three which Dr. Clain titles general description of hepatitis B viral infection. Do you have any comments to paragraph one?
A. I have no comments on all the paragraphs on this page. How about that? Instead of reading paragraph by paragraph.
Q. What about section four? Do you have any comments to section four?
A. Let me just go back one second to five only because it's the same clarification I made before so I didn't think I had to say it again that the only comment he makes about

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follow up is for liver cancer, not reactivation.
Q. Where are you looking?
A. Last paragraph -- page five, standard practice of patients in all categories continue to be indefinitely for cancer. It's as if that's the only thing, focus always on cancer rather than inactivation, so that you could be retreated. He said it before in the other -- he just restates it exactly the same way.
Q. So you would agree with Dr. Clain, however, you would add that patients should continue to be monitored indefinitely for reactivation as well?
MR. TRIEF: Objection to the form of the question.
Q. Is that right?
A. I want to add that it's not fully accurate. That's all.
Q. Because?
A. Because he left out measuring, looking for reactivation.
Q. So then I just want to make sure I understand what you're saying. You're saying that patients in all categories should be

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monitored for reactivation as well as cancer?
MR. TRIEF: Objection to form of the question. You can answer.
A. Again, I'm just adding. Why would I object to something that's already there if all I'm doing is adding something?
Q. Do you have any other comments to section three?
A. Nope.
Q. What about section four?
A. Yes.
Q. Should we do it paragraph --
A. No, only the last paragraph.
Q. Okay.
A. It is inaccurate statement was and always remained at significant risk of death from liver cell cancer after his interferon treatment. He used the data inaccurately.
Q. What do you disagree with in that sentence, the word significant?
A. You're darn right.
Q. Okay. Would you agree that Mr. Lin remained at a risk of death from liver cell cancer?

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A. A minimal, minimal, and it's the same statements I've made throughout. He has exaggerated this well beyond his own references as well as the literature he based it on.
Q. Would you agree that this minimal risk was over and above the ordinary risk of liver cell cancer in the general population due to his status as a hepatitis B carrier?
A. Minimal is not significant and very hard to differentiate from the general population. That's the reason everybody looks for statistical significance versus not. If it's not statistically significant it may not in any way be greater than the general population.
Q. So I just want to make sure I understand --
A. I didn't finish my sentence.
Q. Okay.
A. Particularly in a patient without cirrhosis, which he did not have, which is also frequently left out of this whole discussion, but I'm not going to make a big issue out of it.
Q. I just want to make sure I understand your answer. Do you believe that Mr. Lin was at

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a minimally greater risk of having liver cell cancer than the general population?
MR. TRIEF: That was just asked. It was just asked a second ago.
MS. SHERER: I didn't hear it.
A. My answer is probably not an elevation, but they all talk about it but since there are no statistics it may be within the range of the normal population which is what I said all the way along therefore the -- there is enormous education of the cancer issue which is all this statement keeps -- his whole statement keeps focusing on.
Q. Now, I did hear you say that you felt that it was exaggerated, but what I'm trying to figure out from you is whether you think there is any additional risk or not?
A. And I made it clear that no one is sure.
Q. So you don't know?
A. No one knows.
Q. Do you know Dr. Clain professionally or otherwise?
A. Absolutely not.

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Q. Do you have an opinion as to his credentials?
A. Nope. I don't even know if I know them.
Q. Do you know them?
A. I just said I don't even know if I know them.
Q. Okay. That means you don't, right? I just want to --
A. I don't, and if I did I do not know them at this moment when you're asking me about what I think about his credentials.
Q. Okay. Now, in section one of his report, which you did not have any comments on, Dr. Clain discusses the application of Mr. Lin for the life insurance that is at issue in this case. Have you seen that application before?
A. You asked me that before, and I said I do not remember, nor do I feel competent to comment on the application or anything related to the insurance company and the application.
Q. Okay. Well, I'm going to see if I can refresh your recollection.
A. I don't want to comment on it. I am

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not an expert about insurance or applications. I've applied once in my life, period.
Q. I haven't asked you the question yet.
A. I may not answer, but go ahead.
MR. TRIEF: You can look at it.
Q. You may be able to answer it. I may ask you a question that you may be able to answer.
A. Go ahead.
MS. SHERER: Now, I'm going to mark this as the next exhibit which is F, and I want to ask you --
MR. TRIEF: Do you have a copy for me?
MS. SHERER: Yes, I do.
MR. TRIEF: This is Exhibit F?
MS. SHERER: Yes. After it's been marked I want to ask you if by looking at what's been marked if it refreshes your recollection that you were shown this application by Mr. Trief.
(Aledort Exhibit F, application, marked for identification, as of this date.)

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THE WITNESS: What do you -- there's a huge thing here. What do you want me to look at?
Q. I want you to take a look at what was marked as Exhibit F, and I want to ask you first whether you've ever seen this document before?
A. No, I don't think so.
Q. Okay. Now, in Dr. Clain's report in section one Dr. Clain notes that Mr. Lin marked no to a question regarding whether he had ever received any treatment, attention or advice for hepatitis, among other diseases. My question for you is based on your review of the medical records in this case do you believe that Mr. Lin received treatment, attention or advice for hepatitis?
MR. TRIEF: Objection to the question as it's asked. You can ask -- you can ask him specifically whether he believes that he received treatment, attention or otherwise, but you can't tie it into a document he's never seen before. So I don't mind --
MS. SHERER: Can you repeat the

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answer the question?
MR. TRIEF: No, I'm instructing him not to answer. You can get a ruling for that. He's not going to give you an opinion as to what underwriting issues should occur or what a person should do on an application policy. He's not going to do it.
MS. SHERER: I need it clear.
MR. TRIEF: I'm going to instruct on all these questions.
Q. Are you refusing to answer the question?
MR. TRIEF: I'm instructing not to answer.
A. He's instructed me and he's my lawyer.
MR. TRIEF: I'm the lawyer and he's going to listen to me and you can take a ruling on that.
Q. Were you ever given any records from Dr. Huang to review in formulating your opinions for this case?
A. I don't remember. Probably not, but

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I don't remember.
RQ
MS. SHERER: If when you are doing your search for other records that you might have in your possession that are related to this case if you come across any records from Dr. Huang I'd like to request that you turn them over to your lawyer.
Q. Are you aware that there were two other life insurance policies applied for on the life of Mr. Lin?
A. No.
Q. Have you seen any other applications for life insurance other than this one?
MR. TRIEF: Objection. He has not seen this one.
A. I haven't seen this.
Q. Right. I know. Now my question is have you seen any other life insurance application?
A. Other implies that I've seen this.
Q. Well, now you've seen this one. I showed it to you today. Other than the application that I've shown you today --

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A. I don't think so.
Q. Were you aware that Mr. Lin applied for a life insurance policy in May of 1999?
A. No. I'm not aware of dates of people and their insurance in this case, the dates of anybody applying for another insurance policy.
Q. Are you aware of whether or not Ms. Lin received payment for her claims on other life insurance policies?
A. I don't have the foggiest idea of whether she got a dime from anybody.
Q. Are you aware of whether or not Mr. Lin disclosed his treatment for hepatitis B on any other life insurance application?
A. I have not seen any other insurance application.
Q. Do you know anything about the contestable period of life insurance applications?
A. Not really.
Q. When you say not really are you thinking of anything in particular?
A. Just know that there is such a word.
Q. Okay.

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A. I don't even know my own insurance whether -- what's the contestable.
Q. Are you aware Mr. Lin died within the contestable period of the MetLife policy at issue in this case?
A. I'm not sure I know that exactly. I may assume that that's part of the legal issue here is that somebody didn't pay him, otherwise it wouldn't be a legal issue, whether it was within or not. I wasn't -- didn't focus any attention on if that was the issue.
Q. Would you agree with Dr. Clain's statement that HS -- HBsAg is a marker of persistence of the virus?
A. Yes.
Q. Do you agree with Dr. Clain's conclusion that continuing suppression of the virus after treatment largely depends on the subject's immune system?
A. I didn't even pay attention to that, but that's the whole issue of whether or not you clear or not clear your virus.
Q. So would you agree that the immune system is key?